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Attorneys for Plaintiff,
Carrie Couser

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**CARRIE COUSER;
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**COAST TO COAST GRAND
GETAWAYS, LLC,**

Defendant.

Case No.:

CLASS ACTION

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
PURSUANT TO THE
TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. §
227, ET SEQ.**

JURY TRIAL DEMANDED

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INTRODUCTION

1. CARRIE COUSER (“Plaintiff”) brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of COAST TO COAST GRAND GETAWAYS, LLC (hereinafter “CCGG” or “Defendant”) in negligently contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their attorneys.
2. The TCPA was designed to prevent calls like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that:

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012

1 WL 3292838, at* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings
2 on TCPA's purpose).

3 4. Congress also specifically found that "the evidence presented to the
4 Congress indicates that automated or prerecorded calls are a nuisance and an
5 invasion of privacy, regardless of the type of call...." *Id.* at §§ 12-13. *See*
6 *also, Mims*, 132 S. Ct. at 744.

7 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA
8 case regarding calls to a non-debtor similar to this one:

9 The Telephone Consumer Protection Act ... is well
10 known for its provisions limiting junk-fax transmissions.
11 A less-litigated part of the Act curtails the use of
12 automated dialers and prerecorded messages to cell
13 phones, whose subscribers often are billed by the minute
14 as soon as the call is answered—and routing a call to
15 voicemail counts as answering the call. An automated
16 call to a landline phone can be an annoyance; an
17 automated call to a cell phone adds expense to
18 annoyance.

19 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

20 6. The Ninth Circuit recently affirmed certification of a TCPA class action
21 remarkably similar to this one in *Meyer v. Portfolio Recovery Associates,*
22 *LLC*, __ F.3d __, 2012 WL 4840814 (9th Cir. Oct. 12, 2012).

23 JURISDICTION AND VENUE

24 7. This Court has federal question jurisdiction because this case arises out of
25 violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs., LLC*,
26 132 S. Ct. 740 (2012).

27 8. Venue is proper in the United States District Court for the Central District of
28 California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
Plaintiff resides in the City of Mira Loma, County of Riverside, State of
California which is within this judicial district; (ii) the conduct complained

1 of herein occurred within this judicial district; and, (iii) many of the acts and
2 transactions giving rise to this action occurred in this district because
3 Defendant:

4 (a) is authorized to conduct business in this district and has
5 intentionally availed itself of the laws and markets within this
6 district;

7 (b) does substantial business within this district;

8 (c) is subject to personal jurisdiction in this district because it has
9 availed itself of the laws and markets within this district; and,

10 (d) the harm to Plaintiff occurred within this district.

11 **PARTIES**

12 9. Plaintiff is, and at all times mentioned herein was, a citizen and resident of
13 the City of Mira Loma, County of Riverside, State of California. Plaintiff is,
14 and at all times mentioned herein was, a “person” as defined by 47 U.S.C. §
15 153 (39).

16 10. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and
17 at all times mentioned herein was, a corporation whose primary corporate
18 address is in the State of Florida, with its principle place of business located
19 at 11219 Marigold Drive, Bradenton, Florida 34202. Defendant is, and at all
20 times mentioned herein was, a corporation and is a “person,” as defined by
21 47 U.S.C. § 153 (39). Defendant is a travel service company that sells travel
22 club memberships and travel packages to consumers nationwide. Plaintiff
23 alleges that at all times relevant herein Defendant conducted business in the
24 State of California and in the County of Riverside, and within this judicial
25 district.

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FACTUAL ALLEGATIONS

11. At all times relevant, Plaintiff was a citizen of the State of California.

Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47 U.S.C. § 153 (39).

12. Defendant is, and at all times mentioned herein was, a Florida corporation and a “person,” as defined by 47 U.S.C. § 153 (39).

13. At all times relevant Defendant conducted business in the State of California and in the County of Riverside, within this judicial district.

14. Defendant utilizes bulk SPAM text messaging, or SMS marketing, to send unsolicited text messages, marketing and advertising Defendant’s travel package trips.

15. On or about February 19, 2014, at approximately 06: 41 a.m. (PST), Defendant sent an unsolicited text message to Plaintiff’s cellular telephone ending in “4164.” This text message, read:

“ND_DIGIT[10]@m
essaging.sprint.pc
s.com>”@mail.tma
il.com / / Limited
time to get your
comp trip for 2:
1650”209”4409

16. Defendant used SMS¹ “4129” to send this unsolicited text message to Plaintiff’s cellular telephone.

17. Plaintiff was at no time given an option to “opt-out” of receiving future unsolicited text messages from Defendant.

¹ The term “Short Message Service” or “SMS” is a messaging system that allows cellular telephone subscribers to use their cellular telephones to send and receive short text messages.

1 18. At no time did Plaintiff provide Plaintiff's cellular phone number to
2 Defendant through any medium, nor did Plaintiff consent to receive such an
3 unsolicited text message.

4 19. Plaintiff has never signed-up for, and has never used, Defendant's services
5 or products, and has never had any form of business relationship with
6 Defendant.

7 20. Through the unsolicited SPAM text message, Defendant contacted Plaintiff
8 on Plaintiff's cellular telephone regarding an unsolicited service via an
9 "automatic telephone dialing system," ("ATDS") as defined by 47 U.S.C. §
10 227(a)(1) and prohibited by 47 U.S.C. § 227(b)(1)(A).

11 21. This ATDS has the capacity to store or produce telephone numbers to be
12 called, using a random or sequential number generator.

13 22. The telephone number Defendant called was assigned to a cellular telephone
14 service for which Plaintiff incurs a charge for incoming calls pursuant to 47
15 U.S.C. § 227(b)(1).

16 23. This text message constituted a call that was not for emergency purposes as
17 defined by 47 U.S.C. § 227(b)(1)(A)(i).

18 24. Plaintiff did not provide Defendant or its agent prior express consent to
19 receive text messages, including unsolicited text messages, to her cellular
20 telephone, pursuant to 47 U.S.C. § 227 (b)(1)(A).

21 25. The unsolicited text message by Defendant, or its agent, violated 47 U.S.C. §
22 227(b)(1).

23 CLASS ACTION ALLEGATIONS

24 26. Plaintiff brings this action on behalf of herself and on behalf of all others
25 similarly situated ("the Class").

26 27. Plaintiff represents, and is a member of the Class, consisting of:

27 All persons within the United States who were sent a text
28 message substantially similar or identical to the text

1 message described in Paragraph 15 of the Complaint by
2 Defendant and/or its agent within the four years prior to
3 the filing of the Complaint.

4 28. Defendant and its employees or agents are excluded from the Class.
5 Plaintiff does not know the number of members in the Class, but believes the
6 Class members number in the tens of thousands, if not more. Thus, this
7 matter should be certified as a Class action to assist in the expeditious
8 litigation of this matter.

9 29. Plaintiff and members of the Class were harmed by the acts of Defendant in
10 at least the following ways: Defendant, either directly or through its agents,
11 illegally contacted Plaintiff and the Class members via their cellular
12 telephones by using an unsolicited SPAM text message/s, thereby causing
13 Plaintiff and the Class members to incur certain cellular telephone charges or
14 reduce cellular telephone time for which Plaintiff and the Class members
15 previously paid, and invading the privacy of said Plaintiff and the Class
16 members. Plaintiff and the Class members were damaged thereby.

17 30. This suit seeks only damages and injunctive relief for recovery of economic
18 injury on behalf of the Class, and it expressly is not intended to request any
19 recovery for personal injury and claims related thereto. Plaintiff reserves the
20 right to modify or expand the Class definition to seek recovery on behalf of
21 additional persons as warranted as facts are learned in further investigation
22 and discovery.

23 31. The joinder of the Class members is impractical and the disposition of their
24 claims in the Class action will provide substantial benefits both to the parties
25 and to the court. The Class can be identified through Defendant's records or
26 Defendant's agents' records.

27 32. There is a well-defined community of interest in the questions of law and
28 fact involved affecting the parties to be represented. The questions of law

1 and fact to the Class predominate over questions which may affect
2 individual Class members, including, but not limited to, the following:

- 3 a) Whether, within the four years prior to the filing of this Complaint,
4 Defendant or its agents sent any unsolicited text message/s (other than
5 a message made for emergency purposes or made with the prior
6 express consent of the called party) to a Class member using any
7 automatic dialing and/or SMS texting system to any telephone number
8 assigned to a cellular phone service;
- 9 b) Whether Plaintiff and the Class members were damaged thereby, and
10 the extent of damages for such violation; and
- 11 c) Whether Defendant and its agents should be enjoined from engaging
12 in such conduct in the future.
- 13 d) Whether Plaintiff and the Class are entitled to any other relief.

14 33. As a person who received at least one unsolicited SPAM text message
15 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
16 typical of the Class. Plaintiff will fairly and adequately represent and protect
17 the interests of the Class in that Plaintiff has no interests antagonistic to any
18 member of the Class.

19 34. Plaintiff and the members of the Class have all suffered irreparable harm as
20 a result of the Defendant's unlawful and wrongful conduct. Absent a class
21 action, the Class will continue to face the potential for irreparable harm. In
22 addition, these violations of law will be allowed to proceed without remedy
23 and Defendant will likely continue such illegal conduct. Because of the size
24 of the individual Class member's claims, few, if any, Class members could
25 afford to seek legal redress for the wrongs complained of herein.

26 35. Plaintiff has retained counsel experienced in handling class action claims
27 and claims involving violations of the Telephone Consumer Protection Act.
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1 36.A class action is a superior method for the fair and efficient adjudication of
2 this controversy. Class-wide damages are essential to induce Defendant to
3 comply with federal and California law. The interest of Class members in
4 individually controlling the prosecution of separate claims against Defendant
5 is small because the maximum statutory damages in an individual action for
6 violation of privacy are minimal. Management of these claims is likely to
7 present significantly fewer difficulties than those presented in many class
8 claims.

9 37.Defendant has acted on grounds generally applicable to the Class, thereby
10 making appropriate final injunctive relief and corresponding declaratory
11 relief with respect to the Class as a whole.

12 **FIRST CAUSE OF ACTION**

13 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

14 **47 U.S.C. § 227 ET SEQ.**

15 38.Plaintiff incorporates by reference all of the above paragraphs of this
16 Complaint as though fully stated herein.

17 39.The foregoing acts and omissions of Defendant constitute numerous and
18 multiple negligent violations of the TCPA, including but not limited to each
19 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

20 40.As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq.,
21 Plaintiff and The Class are entitled to an award of \$500.00 in statutory
22 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

23 41.Plaintiff and the Class are also entitled to and seek injunctive relief
24 prohibiting such conduct in the future.

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SECOND CAUSE OF ACTION

KNOWING AND/OR WILLFUL VIOLATIONS OF THE

TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

42. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

43. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

44. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff and The Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

45. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the Class members the following relief against Defendant:

FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF

THE TCPA, 47 U.S.C. § 227 ET SEQ.

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATIONS OF
THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class member \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

TRIAL BY JURY

46. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: April 14, 2014

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/Gouya Ranekouhi

ABBAS KAZEROUNIAN

GOUYA RANEKOUHI

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